THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19073 of 1999

Dated:07.03.2006

Between:

T.Krishna Veni, W/o.T.Venkata Subba Naidu, and others.

…Petitioner

And

The Tirupati Municipality, Tirupati, Chittoor District, and others.

…Respondents

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WRIT PETITION No.19073 of 1999

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ORDER:

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The three petitioners are related. They filed the present writ petition seeking a writ of mandamus declaring the action of respondent Nos.1 and 2 in trying to interfere with their possession of house bearing Door No.13/7/822/C & D, Vinayakanagar,

Tirupati, in T.S.No.4049 as illegal, arbitrary and violative of Articles 14, 21 and 300A of the Constitution of India. They also seek a consequential direction to the respondents not to interfere with their possession.

It is the case of the petitioners that a house site admeasuring Ac.0.03 cents in T.S.No.4049 of Tirupati Village was assigned to the first petitioner on 24.12.1992 taking into consideration the long standing possession, where the petitioners allegedly constructed a thatched hut and lived for over thirty years. It is alleged that respondent Nos.1 and 2 came to their property on 03.05.1999 and directed to remove the house/hut. The respondents also threatened with forcible eviction. Therefore, the present writ petition is filed. The petitioners contend that without following due process of law, they cannot be evicted from their house.

Respondent Nos.2 to 4 have filed a common counter affidavit, whereas respondent No.5 filed a separate counter affidavit. In the counter affidavit filed by the second respondent on behalf of respondent Nos.2 to 4, it is stated that the land in T.S.No.4049 admeasuring Acs.19.00 is classified as “Kunta” poramboke locally known as “Thataiah Gunta”. Large number of Colonies known as Chinna Gangammagudi Colony, Vinayakanagar Colony, Korlagunta, have come up in the area. There are also Government Offices belonging to the fifth respondent, Veterinary Hospital. An extent of Ac.1.50 cents was allotted to the fifth respondent i.e., Tirupati Urban Development Authority (TUDA), and an extent of Ac.0.49 cents of land is under the possession and enjoyment of one Smt.B.Lakshmidevamma in which a juice factory has come up. It is alleged that the petitioner with a view to grab the Government land, started construction over night, and apprehending action by the revenue authorities, filed the present writ petition. The petitioners produced house site patta granted to the first petitioner in Chinna Gangammagudi Colony in T.S.No.4049. To ascertain the facts, the second petitioner was summoned to the Office of the Mandal Revenue Officer. She appeared on 04.10.1999 and gave a statement to the effect that the first petitioner transferred the house site in her favour by way of gift. The second petitioner was not granted any patta in her individual capacity and the gift made by the first petitioner is violative of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short ‘the Act’). It is further stated that the first petitioner was granted patta on 24.12.1992 in Chinnagangamma temple Colony located on the other side of TUDA Office complex and opposite to Gangamma temple. But, the first petitioner illegally occupied the other land, which was not allotted to her. Therefore, the allegations made by the petitioners are denied. It is further stated that the second petitioner is the wife of the Ex-Village Administrative Officer of Tirupati, and she owns properties at Panakam Village, Tirupati (Rural) Mandal, and she is not a landless poor person. As the first petitioner has violated the conditions of assignment, necessary action is being initiated for cancellation of assignment.

The fifth respondent also filed a separate counter affidavit. It is stated that on a request made by it on 02.12.1992 for allotment of Acs.2.00 of land in T.S.No.4049, the District Collector by proceedings dated 20.12.1996 directed the Mandal Revenue Officer to handover advance possession of land admeasuring Acs.1.55 cents to the Assistant Planning Officer, TUDA. The property was accordingly

handed over on 28.03.1997. The petitioners herein grabbed the land admeasuring Ac.0.03 cents, which is allotted to the fifth respondent.

The petitioners have not filed any reply affidavit denying the counter averments, and therefore, these averments stand unrebutted. Be that as it is, the second respondent in his counter affidavit has admitted that the first petitioner was assigned house site patta on 24.12.1992. As per the statement given by the second petitioner before the Mandal Revenue Officer, the first petitioner gifted the land to the second petitioner. Therefore, necessary action has to be taken by the Mandal Revenue Officer under the provisions of the Act. Secondly, a specific allegation is made by respondent Nos.2 to 4 as well as respondent No.5 that the first petitioner occupied the land allotted to the fifth respondent, instead of raising a construction in the house site allotted to her, which is situated in Chinnagangamma temple Colony. Therefore, it is always open to the respondents to remove such encroachments and also cancel the assignment made in favour of the first petitioner after following due process of law. Except making this observation, no relief can be granted to the petitioners in this writ petition.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

07.03.2006

vs